

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
v. § CRIMINAL NO. 4:06CR248
DESHUN CORDELL EDWARDS §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 24, 2011 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Tracey Batson.

On April 12, 2007, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 21 months imprisonment followed by a 3-year term of supervised release, for the offense of felon in possession of a firearm. Defendant began his term of supervision on December 1, 2009.

On April 18, 2011, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 27). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not leave the judicial district without the permission of the Court

or probation officer; and (3) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The Petition alleges that Defendant committed the following violations: (1) Defendant was indicted on February 11, 2011, in Franklin County, Texas, for one count of engaging in organized criminal behavior. The indictment alleges that on July 9, 2010, in Franklin County, Texas, Defendant did then and there, unlawfully appropriate, by acquiring or otherwise exercising control over property, to-wit: ATM machine of the value of \$20,000 or more but less than \$100,000, from Texas American Bank, the owner, thereof, without the effective consent of the owner, with the intent to deprive the owner of the property. Franklin County, Texas is a county within the jurisdiction of the Eastern District of Texas. On March 17, 2011, Defendant was arrested on the charge, and is currently in Franklin County Jail, with bond set at \$125,000. Additionally, a state parole violator's warrant was issued on March 15, 2011, and is currently lodged as a detainer; (2) As indicated in the aforementioned violation, Defendant violated this condition by leaving the Northern District of Texas on or about July 9, 2010, without permission of the Court or probation officer. Defendant has been supervised in the Northern District of Texas, Garland Division, since the commencement of supervision; and (3) Defendant violated this condition of supervised release when he was contacted by an officer of the Clyde Police Department, in Clyde, Texas, on May 26, 2010, as evidenced by the crime report produced on said date. On May 26, 2010, on or about 3:10 a.m., Defendant was contacted by Officer Foster of the Clyde Police Department, while on routine patrol, and Defendant failed to notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the August 24, 2011 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty two (22) months to run consecutively to any other sentence being served, with no supervised release to follow.

SIGNED this 9th day of September, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE